HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

S.B. Criminal Revision Petition No. 832/2004

The State of Rajasthan

----Petitioner

Versus

1. Ram Bharosi Lal Garg S/o Brijlal Garg, R/o B-29, Dev Nagar, Tonk Road, Jaipur, retired Executive Engineer & Investigation and Extension Officer, Sahibi River Project, Forest Department Jaipur.
2. Rishi Garg S/o Ram Bharosi Lal Garg;
3. Smt. Usha Garg wife of Ram Bharosi Lal Garg (deceased)
4. Kumar Riru Garg D/o Ram Bharosi Lal Garg;

All are R/o B-29, Dev Nagar, Tonk Road, Jaipur.

----Accused non-petitioners

For Petitioner(s)	:	Mr. Chandragupt Chopra, PP
For Respondent(s)	:	None present

HON'BLE MR. JUSTICE SUDESH BANSAL

Order

17/01/2024

1. This criminal Misc. petition under Section 397 Cr.P.C. has been filed by and on behalf of the State of Rajasthan, challenging the order dated 11.06.2004 passed by Special Judge (Prevention of Corruption Act), Jaipur (titled as State of Rajasthan Vs. Shri Ram Bharosi Lal Garg) by which the applications filed by the non-petitioners under Section 451/457 Cr.P.c. for releasing the articles have been allowed.

2. From perusal of the record, it transpires that no interim stay order against the impugned order dated 11.06.2004 was passed in the present revision petition, while issuing notices to the non-petitioners vide order dated 01.02.2005. Thereafter one of non-petitioner No.3-Smt. Usha Garg has passed away and her name

has been ordered to be deleted vide order dated 26.09.2005. In that view of matter, this court enquired about the present status of criminal case No. 38/2002 from the trial Court. As per the status report dated 17.01.2024, 56 prosecution witnesses have examined and prosecution evidence has concluded. In defence evidence, 6 witnesses have been examined, cross examination from one defence witness DW-5 Rishi Garg is going on and only examination of one defence witness is pending.

3. From perusal of the impugned order, it transpires that the trial Court allowed as many as 7 applications by the common order dated 11.06.2004, impugned herein, whereby and whereunder few articles have been allowed to be released, subject to condition of furnishing the security and bail bonds as also undertaking that if on the conclusions of the criminal trial, the released articles would be required to be produced before the Court for the purpose of confiscation, the interim order to release such articles would not come in way and the non-petitioners would be bound to produce such articles.

4. Since the impugned order was passed on 11.06.2004 and operation of the same was not stayed. In the meanwhile, the trial of the present criminal case has reached to its fag end as after completion of prosecution evidence, only cross examination from one defence is (DW-5) and examination of (DW-8) is pending. Thus, at this advance stage of the criminal trial, this Court does not deem it just and proper to enter into examining the correctness, legality and propriety of the impugned order on merits, more particularly, in the light of condition, imposed by the

trial Court to release the articles, on interim custody of the non-petitioners subject to final decision of the criminal case.

5. In that view of matter, without interference to the impugned order, the instant petition stands disposed of.

(SUDESH BANSAL),J

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